

### REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 1, 2, 4, and 6 through 16 are pending, with Claims 1, 6, 12, and 16 being independent. Claims 6 through 16 were withdrawn from consideration. Claims 3 and 5 have been cancelled without prejudice. Claims 1, 2, and 4 have been amended.

As required, Applicant affirms the provisional election of Group IA (Claims 1 through 5) with traverse, and request reconsideration and withdrawal of the requirement. Applicant submits that all of the claims could be searched by one Examiner without undue effort. Applicant also believes that it is not mandatory to make a restriction requirement in every possible situation. Applicant believes that if one Examiner acts on all of the claims of the present application, overall examining time will be less than if multiple Examiners are involved. Applicant also earnestly believes that the examination of all of the claims by one Examiner in the present application will best ensure uniform prosecution quality. Therefore, in the interest of prosecution economy of time and quality for both the Office and Applicant, Applicant respectfully submits that withdrawal of the restriction requirement in this application is appropriate.

Claims 1 and 3 were rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, as being indefinite, namely: (a) The Official Action asserts that it is not clear what “some other element” in Claim 1 is, and (b) The Official Action asserts that it is ambiguous whether the substrate in Claim 3 is made of semiconductor or if it is a substrate of a layer of a semiconductor material. All rejections are respectfully traversed and are submitted to have been obviated or mooted by the amendment of Claim 1 in a manner earnestly believed to avoid the grounds of rejection (i.e., the

term “other” has been replaced) and the cancellation without prejudice of Claim 3, and inasmuch as breadth does not constitute indefiniteness (MPEP 2173.04).

Claims 1 through 5 were variously rejected under 35 U.S.C. §§ 102 or 103 over EP 1 286 194 A2 (Ouchi, et al.), or under 35 U.S.C. § 103 over U.S. Patent No. 5,786,925 (Goosen, et al.) (that document is listed on the Form PTO-1449 being submitted herewith as it did not appear to be listed on the Form PTO-892). All rejections are respectfully traversed.

Claim 1 recites, *inter alia*, that each of the light emitting element and the substrate (mounting the light emitting element thereon and having an optical path transforming structure) comprises a semiconductor body having a surface, the surface of the light emitting element and the surface of the substrate being attached to each other.

However, Applicant respectfully submits that none of Ouchi, et al. and Goosen, et al. discloses or suggests at least the above-discussed claimed features as recited, *inter alia*, in Claim 1. Applicants further respectfully submits that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at such claimed features. By means of such features, Applicant respectfully submits that the optical alignment between the light emitting element and the optical path transforming structure is easily established.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

Applicant submits that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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